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BEFORE THE ARIZONA CORPORATION COMMISSION

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Arizona Corporation Commission

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COMMISSIONERS

MARC SPITZER, Chairman
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MIKE GLEASON
KRISTIN K. MAYES

2004 OCT 13 P 2:30

AZ CORP COMMISSION
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OCT 13 2004

DOCKETED BY

IN THE MATTER OF QWEST CORPORATION'S
FILING OF RENEWED PRICE REGULATION
PLAN.

DOCKET NO. T-01051B-03-0454

IN THE MATTER OF THE INVESTIGATION OF
THE COST OF TELECOMMUNICATIONS
ACCESS.

DOCKET NO. T-00000D-00-0672

PROCEDURAL ORDER

BY THE COMMISSION:

On September 17, 2004, Arizona Corporation Commission ("Commission") Utilities Division Staff ("Staff") filed a Motion to Compel Qwest to Respond to Staff Data Requests. At the time it filed the Motion, Staff indicated it was awaiting responses to approximately 87 data requests that were overdue. Staff claimed that its ability to file complete testimony by its October 19, 2004 deadline was endangered by the large number of outstanding and past due responses.

Pursuant to our September 20, 2004 Procedural Order, Qwest filed its Response to Staff's Motion to Compel on September 24, 2004. Qwest's Response also contained a Cross-Motion for the imposition of discovery limits. In its Response, Qwest indicated that responses to a number of the "overdue" requests had been provided prior to Staff's Motion and that Qwest continues to attempt to respond to Staff's requests.

Following a Procedural Conference on September 27, 2004, our September 29, 2004 Procedural Order ordered Qwest to file responses to all overdue data requests by October 1, 2004. In that Procedural Order we noted that the ambitious schedule in this proceeding was straining the discovery process, and that the schedule may prove to be unrealistic given the number and importance of issues involved in this matter.

On October 4, 2004, Staff filed a Response to Qwest's Cross Motion for the Imposition of

1 Discovery Limitations.

2 On October 7, 2004, Staff filed a Request for Extension of Time to File Direct Testimony
3 Based upon Noncompliance by Qwest Corporation with the Commission's September 29, 2004
4 Procedural Order. Staff stated that upon review of the Qwest data request responses filed on October
5 1, 2004 and October 4, 2004, some of the responses were incomplete and Staff had no indication
6 from Qwest when it can expect to receive this information. Staff requested an expedited procedural
7 conference.

8 Given the approaching deadline for Staff and Intervenor testimony, on October 8, 2004, the
9 Hearing Division arranged a telephonic Procedural Conference on October 12, 2004, to consider
10 Staff's Motion for Extension.

11 On October 12, 2004, Qwest filed a Response to Staff's Motion. Qwest's Response included
12 a Reply to Staff's Response to Qwest's Cross-Motion for Discovery Limitations. Qwest argues that
13 it complied with the September 29, 2004 Procedural Order and responded to all of the data requests
14 identified in Staff's Motion to Compel.

15 At the Procedural Conference, Staff argued that because the responses provided on October 1,
16 2004 were not complete, Staff's consultants have been unable to complete their testimony on critical
17 issues, including the revenue requirement. Staff asserted that because the issues outstanding flow
18 through and will affect the remainder of testimony, it was not practical to require Staff to file portions
19 of its testimony on October 19, 2004 (the original due date) and the remaining testimony at a later
20 date.

21 Qwest argued that the problem appears to be with Staff's failure to promulgate certain
22 requests in a timely fashion, redundant requests and an unreasonable probe into minutia. Qwest
23 believes that the amount of discovery Staff promulgated in this matter is excessive. Qwest urged that
24 the Commission limit Staff's request for an extension to only those issues addressed in the
25 outstanding data requests.

26 The circumstances of this matter warrant Staff's request for a thirty day extension to file its
27 direct testimony. When Qwest and Staff presented the current Price Cap Plan for Commission
28 consideration, they and the Commission recognized that it was possible that a new plan would not be

approved when the current term expired. That is the reason for including language that mandates that the current plan remains in effect until a new plan is approved.

We set the current schedule in an effort to balance the various interests in these dockets, however we cannot let an artificial deadline dictate the quality of the evidence presented. There are many issues raised in this case that will affect the nature of the telecommunications industry in Arizona for years. It is critical that the Commission be thorough in its review of Qwest's Renewed Price Cap Plan, which proposes significant changes in the current Price Cap Plan. We do not grant the extension request to penalize Qwest for any delay in responding to Staff's data requests, but rather because the additional time will result in a more thorough analysis and better record, and is mandated by the public interest.

Neither can we grant Qwest's request to limit Staff's discovery at this time. Although Qwest appears to believe the issues raised in this docket are more limited than in a regular rate case, we believe that the Commission must have a sufficiently developed record to set just and reasonable rates, especially in the event Qwest returns to traditional regulation if for some reason a renewed Price Cap Plan cannot be approved. It does not appear that the amount of discovery in this request is out of line with a traditional rate case.

IT IS THEREFORE ORDERED that the schedule established in our June 30, 2004 Procedural Order shall be modified as follows:

Staff and Intervenor direct testimony	November 18, 2004
Qwest rebuttal testimony	December 20, 2004
Staff and Intervenor surrebuttal testimony	January 12, 2005
Qwest rejoinder testimony	January 27, 2005
Pre-hearing conference	February 3, 2005 (1:30 p.m.)
Hearing	February 10, 2005 (10:00 a.m.)

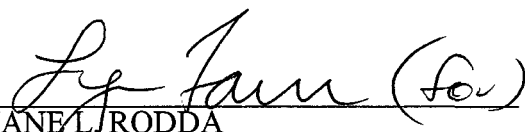
IT IS FURTHER ORDERED that Qwest's Motion for the Imposition of Discovery Limitations on Staff is denied.

1 IT IS FURTHER ORDERED that no data requests shall be served after January 31, 2005.

2 IT IS FURTHER ORDERED that the Presiding Officer may rescind, alter, amend, or waive
3 any portion of this Procedural Order either by subsequent Procedural Order or by ruling at hearing.

4 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113 – Unauthorized
5 Communications) applies to this proceeding as the matter is now set for public hearing.

6 DATED this 13 day of October, 2004.

7
8 
9 JANE L. RODDA
ADMINISTRATIVE LAW JUDGE

10 Copy of the foregoing mailed/delivered
this 13 day of October, to:

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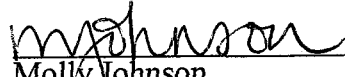
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